



February 18, 2000

Mr. Richard C. Terrell
Attorney at Law
608 E. Second
Alice, Texas 78332

OR2000-0617

Dear Mr. Terrell:

On behalf of the City of Alice (the "city"), you ask for clarification of Open Records Letter No. 2000-0142 (2000). Your query was assigned ID# 133182.

Open Records Letter No. 2000-0142 ordered the City of Alice to release information responsive to a request under the Public Information Act, chapter 552 of the Government Code, for "access to the City of Alice's accident reports." The ruling was based on the city's failure to submit to this office, within fifteen business days of the city's receipt of the written request for information, copies of the information requested or representative samples thereof, as required by section 552.301(e)(1)(D) of the Government Code. Pursuant to section 552.302, if a governmental body fails to make the submissions required by section 552.301, the requested information is presumed to be subject to required disclosure must be released unless there is a "compelling reason" for withholding it.

A showing that information is confidential by law or implicates third party interests may serve as a "compelling reason" for withholding information under section 552.302. *See, e.g.*, Open Records Decision No. 150 (1977). In this instance, however, since the city did not provide the information at issue for our review, this office had no basis in its issuance of Open Records Letter No. 2000-0142, for finding a compelling reason under section 552.302 for withholding the requested information. You now contend that the information responsive to the request for the city's accident reports consists of accident reports on forms promulgated by the Department of Public Safety, and that these records are made confidential in this case by section 552.065 of the Transportation Code.

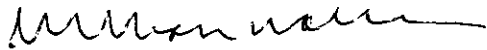
We adhere to the conclusion reached in Open Records Letter No. 2000-0142. Subsection (f) of section 552.301 prohibits a governmental body from asking whether information is

excepted from disclosure if the governmental body has previously requested and received a determination from the attorney general concerning the information at issue and the attorney general has determined that the information is not excepted from disclosure.

If the city wants to challenge Open Records Letter No. 2000-0142 (2000), it must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the city must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the city does not appeal Open Records Letter No. 2000-0142 (2000) and does not comply with it, then both the requestor and the attorney general have the right to file suit against the city to enforce this ruling. *Id.* § 552.321(a). Please note that section 552.352 makes distribution of confidential information a criminal offense.

If you have questions about this matter, please contact our office.

Sincerely



William Walker
Assistant Attorney General
Open Records Division

WMW/ljp

Ref: ID# 133182

Encl. Submitted documents

cc: Mr. Joe Trejo
5018 Kasper Street
Corpus Christi, Texas 78415
(w/o enclosures)